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EXAMINER

MANOHARAN, MUTHUSWAMY GANAPATHY

ART UNIT

PAPER NUMBER

2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---|--------------------------------------|--|
| Office Action Summary | Application No. 10/601,773 | Applicant(s) YOUNGS ET AL. | |
| | Examiner MUTHUSWAMY G. MANOHARAN | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-34, 39, 40, 42 and 44-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-34, 39, 40, 42 and 44-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 30-34, 39, 40, 42 and 44-49 have been considered but they are not persuasive.

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Applicant argues that no media program is taught or suggest by Teel. McCormick teaches media program and both McCormick and Teel teaches broadcasting information to users. Teel further teaches assigning a separate channel for each cell sites in order to broadcast information ("each area assigns a different channel"). Further media program is interpreted as any information that is to be broadcasted by the network so as to reach the subscribers.

McCormick in view of Tell teaches all the limitations of the claim.

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Applicant argues that the claim limitation "if the second wireless handset is determined to be outside the cell site coverage" is not taught by Teel.

This particular claim limitation is not critical as clear from the disclosure.

Applicant's disclosure in items 58, 60, 62 and 64

Item 58 recites,"Is second handset in same cell site as first handset?.

If it is true then

Transmit media program on same channel used by first wireless handset or transmit media program to second wireless handset on different channel

Else

Transmit media program on any available wireless channel.

This clearly shows that this part of the invention is not very critical and is clearly a design choice.

Teel teaches assigning different channel for different cell sites therefore, it is automatically establishing a second wireless channel to transmit broadcast the information to the second wireless handset if the second wireless handset is outside the cell site coverage area.

In response to applicant's argument that the references by McCormick and Teel are not combinable. the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both McCormick and Teel are related to broadcasting information to wireless handsets. Teel teaches multi-site channel assignment (each different channel for different cell sites). Therefore, Teachings of McCormick can be combined with Teel to handle problems specific to multisite broadcasting.

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To provide additional flexibility could mean one need not transmit the same media program to two different subscribers at the same time and one can transmit at

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different time depending on the subscriber's convenience. Therefore, it is providing additional flexibility to the subscribers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 30-34,39-40,42, and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick et al. (hereinafter McCormick) (US 6,169,894) in view over Teel (US 5200954).

Regarding **claim 30**, McCormick discloses a method for providing transmission of a selected media program to a plurality of wireless handsets deployed in a wireless

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network having at least one cell site coverage area associated therewith (Abstract and Figure 1), the method comprising:

receiving a request to receive a selected media program from a first wireless handset in the cell site coverage area (Figure 3, steps 300 and column 6, lines 17 to 27);

establishing a first wireless channel upon which to broadcast the selected media program in the cell site coverage area (Figure 3, step 310 and col. 6, lines 30-50);

receiving a request to receive the same selected media program from a second wireless handset (inherent based on column 6, lines 59 to 66, as the reference discloses that multiple users may use the same broadcast channel, therefore receiving a request is repeated multiple times); and

in response to the request, determining whether the second wireless handset is in the cell site coverage area (“the switch then determines that the feature code is a request for information over a broadcast channel and directs a local site”, Col. 6, lines 31-33).

McCormick did not disclose specifically establishing a second wireless channel upon which to broadcast the selected media program to the second wireless handset wherein the second wireless channel is different than the first wireless channel.

However, Teel discloses in an analogous art a method of establishing a second wireless channel upon which to broadcast the selected media program to the second wireless handset if the second wireless handset is determined to be outside the cell site coverage area, wherein the second wireless channel is different than the first wireless

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channel ("in a multicast network each site assigns a specific channel to a call independently of the channel assignments made by other sites", Col. 2, lines 35-48, "multisite avoids the problem of overlapping signals by having each area assign a different channel for any one call", col. 4, lines 11-25). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use the method of establishing a second wireless channel upon which to broadcast the selected media program to the second wireless handset wherein the second wireless channel is different than the first wireless channel in order to provide additional flexibility to the needs of the subscribers.

Claim 40 is rejected for the same reason as set forth in claim 30.

McCormick discloses all the steps/elements of dependent **claims 31 and 47**, including, wherein the selected media program comprises a selection from a group consisting of: a cable program, a television program, a satellite program, and a radio program (column 3, lines 39 to 44).

McCormick discloses all the steps/elements of dependent **claims 32 and 45**, including wherein the selected media program comprises a pre-recorded media program (Col. 3, lines 35-62).

McCormick discloses all the steps/elements of dependent **claims 33 and 46**, including wherein the selected media program comprises a real-time transmission (Col. 3, lines 35-62).

McCormick discloses all the steps/elements of dependent **claims 34 and 48**, including wherein the selected media program comprises a selection from a group consisting of: audio program (Id.), video program, and data transmission (Id.).

McCormick discloses all the steps/elements of dependent **claims 39 and 42**, including multiplexing (inherent in view of column 6, line 35) the media program onto the first and second wireless channels (column 5, lines 20 to 40).

McCormick discloses all the elements of dependent **claim 44**, wherein the source provider is the wireless network (local cell and Figure 1).

McCormick discloses all the elements of dependent **claim 49**, wherein the wireless network communication scheme comprises a selection from a group consisting of: TDMA, FDMA, and CDMA (column 6, line 35).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUTHUSWAMY G. MANOHARAN whose telephone number is (571)272-5515. The examiner can normally be reached on 7:00AM-2:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eng George can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617